

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT :**

**THE HONOURABLE MR. JUSTICE R.BASANT**

**THURSDAY, THE 6TH DECEMBER 2007 / 15TH AGRAHAYANA 1929**

**Bail Appl..No. 7483 of 2007(E)**  
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**(CRIME NO. 390/2007 OF THE MEDICAL COLLEGE POLICE STATION, KOZHIKODE)**

**PETITIONER/ACCUSED:**  
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**P.SUMESH, S/O. LATE VELAYUDHAN,  
AGED 30 YEARS, LINI NIVAS, PANYOOR HOUSE,  
VANIYAMKULAM, PALAKKAD MINI BUS STOP, PALAKKAD.**

**BY ADV. SRI.G.SREEKUMAR (CHELUR).**

**STATE OF KERALA/COMPLAINANT:**  
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**THE STATE OF KERALA, REP. BY  
THE SUB INSPECTOR OF POLICE, TOWN POLICE STATION,  
KOZHIKODE THROUGH THE PUBLIC PROSECUTOR,  
HIGH COURT OF KERALA, ERNAKULAM.**

**BY PUBLIC PROSECUTOR SRI. JAI GEORGE.**

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION  
ON 06/12/2007, THE COURT ON THE SAME DAY PASSED THE  
FOLLOWING:**

**R.BASANT, J**

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**B.A.No.7483 of 2007**  
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**Dated this the 6th day of December, 2007**

**ORDER**

Application for regular bail. Petitioner faces allegations under Section 376 I.P.C. The crime was initially registered under the caption `woman missing'. Later the allegation under Section 376 I.P.C has been included.

2. The crux of the allegations now raised by the police against the petitioner is that the petitioner made false representations to the victim to induce her to believe that he is an eligible bachelor, whereas he had really contracted an earlier marriage and had a child in such marriage. He induced her to enter into a matrimony. Both of them went before the Arya Samaj, Calicut and a marriage was solemnised between them. As they belong to different communities, the petitioner induced her to believe that she cannot immediately be taken to his house. It is alleged that on the strength of the said marriage, they had physical intercourse also. Later, the petitioner allegedly suggested to her a method to find her way into his house. A

home nurse was required in his house. Therefore she could apply to be a home nurse in his house. She accordingly made an application and then he agreed to take her. When she was taken to his house, she was left with a relative of the petitioner. From that relative, the victim came to know that the petitioner is married and he has a wife and a child. It is thereafter in desperation, she returned to her native place by which, crime under the caption 'woman missing' had been registered at the instance of her relatives. The petitioner was arrested on 23.10.07. He continues in custody from that date.

3. The learned counsel for the petitioner contends that the petitioner is absolutely innocent. No specific stand is taken about the alleged marriage at the Araya Samaj by the learned counsel for the petitioner. He wants further discussions to be made with his party before making any submissions on that aspect. The learned counsel for the petitioner submits that it is incorrect to say that the petitioner is already married. He is not married yet though it is true that he was engaged to marry another girl shortly. The learned counsel for the petitioner

further relies on the alleged statement of the medical officer which the learned Public Prosecutor has fairly brought to the notice of this Court, which shows that the girl had made an incongruent statement of the alleged sexual intercourse. The observations made by the doctor reveal that the hymen was intacted.

4. The learned Public Prosecutor opposes this application. The learned Public Prosecutor submits that the investigation is not complete. A perusal of the case diary must convince this Court of the fraudulent method of the petitioner to deceive the defacto complainant/victim, submits the learned Public Prosecutor. Investigation is not complete. At any rate, the investigator is entitled for further time to complete the investigation, submits the learned Public Prosecutor .

5. I have considered all the relevant inputs. The case diary has been perused by me. All relevant circumstances have been adverted to by me. Having considered all the relevant circumstances, I find merit in the opposition by the learned Public Prosecutor. However, I am satisfied that subject to grant of

further time to the investigator to complete the investigation, the petitioner can now be directed to be released on bail.

6. In the result, this application is allowed. The petitioner shall be released on bail on the following terms and conditions.

i) The petitioner shall not be released on the strength of this order prior to 19.12.2007. The Investigators shall in the meantime make every endeavour to complete the investigation;

ii) The petitioner shall execute a bond for Rs.1,00,000/- (Rupees One lakh only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate;

iii) The petitioner shall make himself available for interrogation before the Investigating Officer between 10 a.m and 12 noon on all Mondays and Fridays for a period of 3 months from the date of his release and thereafter as and when directed by the Investigating Officer in writing to do so.

**(R.BASANT, JUDGE)**

rtr/-

